

From: [Adam Slater](#)
To: [Harkins, Steven M. \(Assoc-ATL-LT\); valpec@kirtlandpackard.com](#)
Cc: [Cohen, Lori \(Shld-Atl-LT\); Rubenstein, Brian \(Shld-PHIL-LT\); Lockard, Victoria D. \(Shld-Atl-LT\); JPriselac@duanemorris.com; SAGoldberg@duanemorris.com; CCT@pietragallo.com; sarah.johnston@btlaw.com](#)
Subject: Re: Valsartan - 2020.07.10 BHR Ltr to Pltfs Following CMML M&C
Date: Friday, July 10, 2020 5:10:00 PM
Attachments: [image001.png](#)

EXTERNAL TO GT

Counsel:

Plaintiffs do not agree to Teva's proposed use of CMML as an overlay to the use of search terms for the production of ESI. This confirms that during our meet and confer Teva's counsel confirmed that you had not yet begun to implement this process and we expect that you will not do so unless and until we reach agreement, or the Court permits you to do so over our objection.

This also confirms that your letter does not accurately encompass all of the concerns we communicated during the call. For example, you could not then, and have not now, addressed our requests for prioritization, which your proposal would not focus on at all. Nor were you able to allay our concerns over the flow of documents that would come to us, and our objection to any process that could lead to Teva neither reviewing or producing a set of documents. And this all with allowing no plaintiff involvement or transparency to the specific parameters you intend to utilize for "responsiveness" for the ongoing review.

In addition, thank you for mentioning the cases you cited in your prior letter. I note that your most recent letter varies the cases cited as compared to your prior letter - you appear to no longer be relying on the Rio Tinto case, and this is for good reason since the case does not support your position, and in fact cites to a line of cases, including cases more akin to this situation, where cooperation between the parties and material input by the plaintiffs was part of the protocol. In fact, none of the cases cited support your position because none of the cases address a situation in this procedural posture where among other things there was already agreement to use search term review, the parameters of which was heavily litigated to finality twice.

We are confident that the Court will not approve of Teva's proposed use of CMML as an additional layer of review, leading to the potential non-review and consequent non-production of documents identified with the search terms, while ignoring Plaintiffs' requested prioritization, where you have sprung this after the intensive revisiting of the search terms. This should have been presented and addressed at the outset, last fall before it was agreed that search term review would be used - that is what the ESI protocol contemplated. It is simply too late now to try to impose this.

In fact, in light of the troubling decision by Teva to seek to impose this process at such a late date, please immediately confirm what Teva has done to meet Plaintiffs' requests for prioritization, including from both non-custodial and custodial sources of documents.

If you wish to modify your proposal to address our concerns, and discuss that modified proposal, please advise. Otherwise, this issue will need to be presented to the Court.

Thank you,

Adam Slater

From: harkinss@gtlaw.com <harkinss@gtlaw.com>
Sent: Friday, July 10, 2020 4:33 PM
To: valpec@kirtlandpackard.com <valpec@kirtlandpackard.com>
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Counsel,

On behalf of Brian Rubenstein, please see the attached correspondence and exhibits.

Best,

Steven M. Harkins
Associate

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